



FOREIGN
BROADCAST
INFORMATION
SERVICE

JPRS Report

East Europe

Poland: CEMA Cooperative Efforts

Reproduced From
Best Available Copy

19991222 024

DISTRIBUTION STATEMENT A
Approved for Public Release
Distribution Unlimited



East Europe

Poland: CEMA Cooperative Efforts

JPBS-EER-88-103

CONTENTS

2 DECEMBER 1988

Recent Developments in New Forms of Cooperation With CEMA Countries Reviewed	
<i>[REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) 14 Jul]</i>	1
Direct Enterprise Cooperation With Bulgaria, Hungary	3
PRL, Bulgarian Government Understanding	
<i>[REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) 14 Jul]</i>	3
PRL, Hungarian Government Agreement	
<i>[REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) 14 Jul]</i>	4
PRL, USSR Trade Chambers Outline System of Enterprise Contacts	
<i>[REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) 14 Jul]</i>	5
Polish-Soviet Customs Clearance Understanding	
<i>[REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) 14 Jul]</i>	6
Contract Prices Protocol Between Poland, USSR	
<i>[REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) 14 Jul]</i>	8
Ruling on Polish, Soviet Direct Enterprise Cooperation Published	
<i>[REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) 14 Jul]</i>	8
Resolution on Polish, Soviet Joint Enterprise Activity Published	
<i>[REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) 14 Jul]</i>	10
Order on Exemption From Duties, Import-Export Obligations Published	
<i>[REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) 14 Jul]</i>	15
Order on Noncommercial Trade With CEMA Countries Published	
<i>[REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) 14 Jul]</i>	16
Order on Joint Ventures Reporting Obligations Published	
<i>[REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) 14 Jul]</i>	16
Communique on Licensing Policies Published	
<i>[REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) 14 Jul]</i>	17

POLAND: CEMA COOPERATIVE EFFORTS

Recent Developments in New Forms of Cooperation With CEMA Countries Reviewed 26000113 Warsaw REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) in Polish No 137, 14 Jul 88 pp I, II

[Statement by Zdzislaw Kurowski, government plenipotentiary for matters of cooperation and collective enterprises, and under secretary of state at Ministry of Foreign Economic Cooperation]

[Text] The economic cooperation of socialist countries is at present entering upon a new stage of development. It is characterized by the exploration of structural-organizational and economic solutions assuring accelerated science and technology progress, eliminating the technology gap, accelerating structural changes in technical-production base, and strengthening the economic standing of our countries in the world and developing their export potential. This also concerns increasing the dynamism and effectiveness of production, broadening cooperation, and expanding economic and R&D integration.

Considerable momentum was imparted to this exploration by the highest level conferences of CEMA countries in 1984 and 1986. The guidelines for work on the solutions were determined by the 43rd CEMA Session.

This work resulted in "A Concept of the International Socialist Division of Labor for the Years 1991-2005," presented at the 44th Session, which was held on 5-7 July 1988 in Prague.

The need for changes in the division of labor within CEMA and for restructuring the integration mechanisms had long been pointed out. It is due to the awareness of the necessity of adapting and accelerating integrative processes in view of the challenges of time and the succeeding stage of the science and technology revolution, the new tasks and social programs followed in the socialist countries, and the unfavorable aspects of the traditional practice of cooperation that have to be counteracted and prevented.

Analyses and assessments indicate that as early as in mid-1980 the growth rate of specialization and coproduction slowed down, the effectiveness of cooperation in science and technology diminished, the growth of mutual trade declined, and duplication of production became increasingly frequent. The previous efforts to promote standardization, unification, and normalization of manufacturing and products proved relatively ineffective, and such well-known forms of cooperation, used in the practice of international relations, as joint ventures or joint companies, which by their nature are based on initiative "from the bottom" and economic interest in cooperation between the enterprises and organizations themselves and the scientific research institutes, were relatively neglected.

In such a situation, the member countries of CEMA view transition to a new model of cooperation to be a most urgent task in restructuring the international socialist division of labor. While tried and proven forms will be retained, this new model will be characterized by tightened criteria of effectiveness, a greater role of commodity-money relations and economic instruments, and—this being common to the partners and important to them all—a consistent shifting of the point of gravity of integrative processes onto the microeconomic level, that is, onto the level of enterprises and scientific research organizations.

This means that a major direction of attack in the fight for a modern and effective cooperation is, in accordance with the spirit of the reforms being conducted in the socialist countries, the striving to switch from the traditional forms of barter and trade previously dominant in bi- and multilateral relations to new and more fruitful forms of direct and deepened cooperation among autonomous enterprises and R&D organizations as well as to establish joint enterprises and organizations.

As direct ties develop, we place great hopes in the growth of economic initiative and entrepreneurial spirit, acceleration of science and technology progress, modernization and reconstruction of production base, increase in mutual trade in goods and services, expansion of exports, and greater efficiency of production at autonomous and self-financing enterprises.

There is no doubt that the future of economic relations within the socialist community will largely depend on new forms of cooperation among autonomous economic entities. Their development is a necessary prerequisite and at the same time a great opportunity for intensifying economic processes.

A basis for expanding direct ties among the enterprises and economic organizations of our countries is provided by the following agreements concluded in the last 2 years:

—between the Polish and Soviet Governments, on direct cooperation in production, science, and technology, on basic principles for the establishment and operation of joint enterprises and organizations, and on the expansion of barter of staple goods between enterprises and domestic trading organizations;

—between the Polish and Bulgarian Governments, on direct cooperation in production, science, and technology between Polish and Bulgarian enterprises and organizations;

—between the Polish and Hungarian Governments, on direct cooperation in production, science, and technology, and on the formation and operation of joint ventures.

The drafting of similar agreements on direct cooperation between the Polish and Czechoslovak governments, and of an agreement between the Polish and Bulgarian governments on the basic guidelines for the formation and operation of Polish-Bulgarian enterprises and organizations, is in its final stage.

To assure the implementation of these agreements, basic organizational-legal and financial-economic principles have been worked out and applied.

Currently about 300 enterprises and production organizations engage in direct production cooperation, of which more than 200 cooperate with Soviet partners. The forms of this cooperation include production cooperation (production of parts, subassemblies, and assemblies for final production as well as manufacturing the final components of products, joint development of the manufacture of new products and organization of their marketing, exchange of technical and technological experience), mutual assistance in overcoming production problems, and the development of new solutions.

More than 115 Polish R&D and production organizations engage in direct cooperation in science and technology.

Despite the relatively short period of time elapsed since these agreements were signed and new organizational-legal solutions developed and applied, it can be judged that direct cooperation among enterprises and organizations is already producing concrete results despite the numerous problems encountered in this pioneering effort, and thus it encourages other enterprises to join in. Experience shows that the most effective cooperation is among enterprises which jointly explore—and find—solutions to technical and production problems important to them.

Four joint Polish-Soviet enterprises also have been established: MIRACULUM in Krakow, FUM-Ostrzeszow Electromagnetic Couplings Plant, ORBITA Joint-Stock Publishing Co., and the POLSIB Mini- and Microcomputer Networking Hardware and Software Enterprise (with an affiliate in the USSR), as well as the Polish-Bulgarian VITROFLORA partnership.

Work is under way to establish a dozen or so more such joint enterprises. Their establishment is, given the novelty of this proceeding, not free of obstacles, meaning both objective obstacles inherent in the differences in institutional solutions and in the imperfections of economic mechanisms and subjective obstacles due to fossil thinking and ossified habits. We are accumulating experience and learning how to overcome barriers and obstacles. The greatest progress in this respect we achieved in Polish-Soviet cooperation.

As a result of the talks last April between the Polish and Soviet prime ministers, during which the situation was

assessed and the aims of further meetings of the cochairmen of the Intergovernmental Commission for Economic and Scientific-Technical Cooperation determined, a specific plan for resolving the problems and difficulties revealed by the practice of implementation is being carried out.

Among other things, there was drafted an intergovernmental agreement for the application of national currencies in clearings of accounts during direct cooperation among enterprises and organizations and in the activities of joint Polish-Soviet enterprises; the signing of this agreement is scheduled to occur soon. Also drafted was an interbank agreement on the procedure for clearing of accounts and keeping accounts in the national currencies of the Polish People's Republic and the USSR. In addition, a proposal for forming the Sovpolinvest, a Polish-Soviet financial institution for providing assistance in the development of new forms of cooperation, was ironed out.

An agreement on the principles of cooperation in exchange of information was signed by the [Polish and Soviet] chambers of foreign trade. To provide assistance to production organizations of both countries in developing new forms of cooperation, a joint Polish-Soviet commercial and industrial chamber will be established by year-end.

Possibilities for the participation of cooperating enterprises and institutions in purchases and wholesale trade on the Polish and Soviet domestic markets will be afforded.

Also agreed upon was a joint methodological document on the determination by Polish and Soviet enterprises and organizations of contract prices for reciprocally supplied goods in direct cooperation, as well as on the determination of prices for the products manufactured by joint enterprises.

A specially appointed Permanent Working Group will work to further refine the economic mechanisms of Polish-Soviet cooperation. It will deal with, among other things, problems of currency rates of exchange, the ratio of the transfer ruble to the Soviet ruble, the dollar, and the zloty, and the development of uniform operating principles for joint enterprises (taxes, profitability indicators, supplies of producer goods, valuation of fixed capital).

All these agreements are a major breakthrough on the road to dismantle obstacles and promote a more vigorous and dynamic development of direct cooperation and the formation of joint enterprises. The new economic-financial solutions will also be of major importance to the overall development of economic relations with CEMA countries.

In today's REFORMA GOSPODARCZA supplement we are publishing an ensemble of documents defining

the legal foundations and organizational principles of direct cooperation and formation of joint enterprises, in the belief that this will prove useful to many enterprises and R&D organizations in establishing cooperation and conducting the needed organizational work.

Direct Enterprise Cooperation With Bulgaria, Hungary

PRL, Bulgarian Government Understanding
26000114 Warsaw REFORMA GOSPODARCZA
(RZECZPOSPOLITA Supplement) in Polish
No 137, 14 Jul 88 pp I, II

[Understanding Between the Government of the Polish People's Republic and the Government of the People's Republic of Bulgaria Concerning Direct R&D and Production Cooperation Between the Enterprises of Both Countries]

[Text] On 15 October 1986 in Warsaw were signed three agreements between the government of the Polish People's Republic and the government of the Union of Socialist Soviet Republics:

- on direct production and R&D cooperation between the enterprises and organizations of the PRL and the USSR;
- on basic principles for the formation and operation of joint enterprises and joint organizations;
- on the development of reciprocal trade in staple goods between domestic trade enterprises and organizations.

The texts of these agreements were published in the REFORMA GOSPODARCZA supplement of 27 November 1986 (No 90). Below we publish the texts of intergovernmental agreements constituting the basis for direct ties between Polish and Bulgarian and Hungarian enterprises and economic organizations.

The Government of the Polish People's Republic and the Government of the People's Republic of Bulgaria (hereinafter referred to as "the Contracting Parties"), guiding themselves by the resolutions of the 10th Congress of the Polish United Workers Party and the 13th Congress of the Bulgarian Communist Party on accelerating the growth of the national economies of the Polish People's Republic and the People's Republic of Bulgaria and thus promoting the welfare of working people, posing as a task the satisfaction of the needs of both countries for products not inferior to the world's leading models, and taking into consideration the initiatives of Polish and Bulgarian enterprises and organizations with the object of expanding and refining direct cooperation, have agreed upon the following:

Article 1. The Contracting Parties will take appropriate steps and provide assistance to strengthen mutually advantageous economic and R&D cooperation on the

basis of the further expansion and refinement of direct cooperation between [enterprise] associations, [enterprise] unions, enterprises, research and development organizations, project-design organizations, and other organizations, hereinafter referred to as "organizations" of the Polish People's Republic and the People's Republic of Bulgaria.

Article 2. The organizations of both countries shall establish direct cooperation in production and science, with the object of:

- 1) implementing measures to assure higher labor productivity, modernization of production, a fuller utilization of production capacity, increased output of products not inferior in technical level and quality to the world's best models, and elimination of economically irrational imports;
- 2) continuing to develop a stable and effective specialization and coproduction as well as R&D cooperation in production, chiefly as regards new kinds of production and new technologies;
- 3) conducting joint R&D and application projects relating to the streamlining of production;
- 4) applying up-to-date solutions to organization of production, refinements of technological processes, and the conservation of fuel, energy, and materials;
- 5) mutual assistance in preparing and assembling facilities, in packaging and application of new equipment and technologies, in eliminating flaws in the organization of joint applications of new or improved production facilities, and in applying uniform technical requirements to joint production;
- 6) creating the premises for organizing joint activities, including the formation of joint teams, laboratories, enterprise associations, enterprises, and R&D organizations.

Article 3. Direct cooperation will be established on the initiative of the interested organizations on the basis of agreements and protocols concluded.

Article 4. The Contracting Parties shall, pursuant to the laws in force in each country, assist their organizations implementing direct cooperation; such assistance shall consist in providing the needed economic, legal, and organizational conditions.

Article 5. Organizations of both countries can, pursuant to the laws in force in each country, conclude agreements on cooperation in production, joint R&D teams and laboratories, and on other forms of joint activities.

Article 6. 1. Organizations of both countries can sign protocols on cooperation, which may in particular provide for:

- 1) investigating the possibilities for mutual specialization and coproduction, for organizing joint R&D

projects, for establishing provisional R&D teams and joint laboratories, and for other forms of joint activities;

2) operatively exchanging product models, discrete elements, components, parts, tools, materials, scientific and technical documentation and information, production expertise, experts, and skilled workers, as well as anything else needed;

3) providing consultation, expertises, and other service;

4) carrying out one-of-a-kind orders with the aid of unused production facilities.

2. Operative exchange, provision of services, and performance of one-of-a-kind orders can be handled on the basis of reciprocal compensation without requiring payments in foreign exchange.

Article 7. Organizations of both countries can, pursuant to the laws in force in each country, conclude contracts for supplies of goods and provision of services as ensuing from the cooperation specified in this Agreement.

These supplies and services shall be included in long-range agreements on mutual trade and payments as well as in the yearly protocols appended to these agreements.

Article 8. When concluding and implementing agreements, protocols, and contracts, organizations of both countries shall follow the appropriate guidelines of the bodies of the Council for Mutual Economic Assistance, the Polish-Bulgarian Commission for Economic Cooperation, bilateral agreements between the Polish People's Republic and the People's Republic of Bulgaria, and multilateral agreements to which both countries are parties.

Article 9. Design documents and other technical documents received by the organizations when implementing this Agreement shall not be made available to individuals or legal entities without prior approval of the organization providing these documents.

Article 10. The Polish-Bulgarian Commission for Economic Cooperation shall take steps to improve reciprocal exchange of information on the subjects of activities and on the manufacturing, scientific, and technical possibilities of organizations of both countries.

Article 11. Supervision over the implementation of this Agreement shall be exercised by the Polish-Bulgarian Commission for Economic Cooperation.

Article 12. This Agreement is subject to acceptance, pursuant to law, by each of the Contracting Parties, as shall be affirmed through exchange of notes. This Agreement shall be effective on the day the latter note is received. This Agreement may be renounced by either

Contracting Party, but not later than within 12 months prior to the expiration of a given calendar year; in that case, it shall cease to be binding at year end.

Prepared in Warsaw on 10 April 1987, in two originals, each in both the Polish and the Bulgarian languages, with both texts being equally binding.

PRL, Hungarian Government Agreement

26000114 Warsaw *REFORMA GOSPODARCZA*
(*RZECZPOSPOLITA Supplement*) in Polish
No 137, 14 Jul 88 pp I, II

[Agreement Between the Government of the Polish People's Republic and the Government of the Hungarian People's Republic Concerning Fundamental Principles of Direct Cooperation of Economic Organizations and the Creation of Mixed Enterprises]

[Text] The Government of the Polish People's Republic and the Government of the Hungarian People's Republic, hereinafter referred to as "the Contracting Parties," guiding themselves by the resolutions of the 10th Congress of the Polish United Workers Party and the 13th Congress of the Hungarian Socialist Workers' Party, attaching great importance to implementing the resolutions of the highest level economic conference of member countries of the Council for Economic Mutual Assistance on deepening socialist economic integration through the further development of specialization and coproduction and other forms of economic and R&D cooperation, implementing consistently the Comprehensive Program for Science and Technology Progress of the Member Countries of the Council for Economic Mutual Assistance Until the Year 2000, being desirous of further expanding and developing socialist economic integration between the Polish People's Republic and the Hungarian People's Republic, and taking into consideration the initiatives of Polish and Hungarian enterprises and organizations, agree upon the following:

Chapter 1. Basic Principles of the Direct Cooperation of Economic Organizations

Article 1. 1. The Contracting Parties shall support the development of and provide assistance in refining direct manufacturing and R&D cooperation between enterprises, R&D units, and project-design and other organizations, hereinafter referred to as "economic organizations."

2. Direct production and R&D cooperation is interpreted as cooperation implemented directly by economic organizations and intended in particular to develop manufacturing and R&D specialization and cooperation, streamline production and R&D work, apply the achievements of science and technology progress to production, improve technological processes, utilize production capacities more fully, enhance labor productivity, and expand trade.

Article 2. Direct production and R&D cooperation will be established upon the initiative of the interested economic organizations by means of the conclusion of appropriate civil-law agreements by these organizations. These agreements will specify the scope and forms of cooperation.

Article 3. The conclusion and implementation of agreements on direct cooperation shall follow the principles established in the longrange agreements on mutual deliveries of goods and on payments between both countries, as well as in the yearly protocols appended to these agreements.

Article 4. The prices of the goods delivered and services rendered under direct cooperation shall be determined in accordance with the corresponding rules of the Council for Mutual Economic Assistance.

Article 5. Any design and technical documentation transmitted and received under this Agreement may not be made available to third parties without prior consent of the economic organization providing the documentation.

Chapter 2. Formation of Mixed Enterprises

Article 6. To exploit more fully the advantages of the international socialist division of labor and the industrial and R&D potential of both countries, the Contracting Parties shall support the formation of mixed enterprises.

Article 7. 1. Mixed enterprises shall be established as joint-stock capitalized companies on the basis of agreements concluded between the economic organizations of the Polish People's Republic and the Hungarian People's Republic.

2. Shareowners in a mixed enterprises may be only the economic organizations that are legal entities. The shareowners may freely align their mutual relations and the relations within the mixed enterprise, unless the absolutely applicable provisions of the legislation of the country housing the seat of the enterprise specify otherwise.

Article 8. The mixed enterprise is responsible with its entire assets for its obligations.

Article 9. Mixed enterprises price their reciprocal deliveries of goods and services according to the applicable rules of the Council for Mutual Economic Assistance.

Article 10. A mixed enterprise may be dissolved at the desire of its shareowners or in cases specified in the legislation of the country housing the seat of the enterprise, or as envisaged in its founding charter. In the event

of dissolution, the shareowners in the country housing the seat of the mixed enterprise have priority in purchasing its assets, unless the founding charter specifies otherwise.

Article 11. 1. The Contracting Parties guarantee that shareowners from the country which does not house the seat of the enterprise have the right of free transfer of the profits due them or, in the event of dissolution of the mixed enterprise, the right to repatriate their invested capital.

2. The transfer of profits and the repatriation of capital shall occur in the currency in which the profits were earned or the capital invested.

3. The value of currencies shall be reckoned according to official rates of exchange binding in the country housing the seat of the mixed enterprise.

Chapter 3. Sundry and Final Provisions

Article 13. The values and quantities envisaged in the yearly protocols appended to longrange agreements on reciprocal deliveries of goods and services and on reciprocal payments may be augmented by overall contingents for the deliveries of goods and provision of services for the economic organizations participating in direct cooperation and for mixed enterprises. The balance of such turnover shall be taken into account in the protocols appended for the following year to these agreements.

Article 14. This Agreement is effective as of the day of its signing and is applicable indefinitely. It may be renewed by either Contracting Party in writing, but not later than within 12 months prior to the expiration of a given calendar year.

Prepared in Warsaw on 27 October 1987 in two originals, one in the Polish language and one in Hungarian, with both texts being equally binding.

PRL, USSR Trade Chambers Outline System of Enterprise Contacts

26000115 Warsaw *REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement)* in Polish
No 137, 14 Jul 88 p I

[System of Cooperation of the USSR Chamber of Commerce and Industry and the Polish Chamber of Foreign Trade Concerning the Establishment of Direct Manufacturing and Scientific-Technical Contacts Between USSR and PRL Enterprise Associations, Organizations, and Enterprises]

[Text] The USSR Chamber of Commerce and Industry and the Polish Chamber of Foreign Trade, hereinafter referred to as "Chambers," with the object of providing assistance in implementing the "Agreement Between the Governments of the Union of Soviet Socialist Republics and the Polish People's Republic" of 15 October 1986,

and taking into consideration the recommendation of the 30th Session of the Intergovernmental Polish-Soviet Commission for Economic and Scientific-Technical Cooperation, have agreed upon the following:

1. The Chambers shall, in accordance with the scope of their competences, and on the basis of inquiries by member enterprises, engage in work relating to the search of partners for direct cooperation among enterprise associations, enterprises, and organizations of the USSR and the PRL and, as the need arises, assist in establishing direct contacts between them. The choice of the partner and the direction of possible cooperation are decided by the directly concerned Soviet and Polish associations, enterprises, and organizations.

2. To assure the accomplishment of the purposes of this "System" mentioned in Point 1, the Chambers shall:

a) search for partners interested in direct manufacturing and R&D cooperation on the basis of the information received from the partner-Chamber. The USSR Chamber of Commerce and Industry shall transmit proposals from USSR associations, enterprises and organizations to the Moscow Office of the Polish Chamber of Foreign Trade, and the Polish Chamber of Foreign Trade shall transmit proposals from Polish organizations to the Office of the USSR Chamber of Commerce and Industry in the PRL.

The mutually transmitted information should contain:

- name of enterprise and its postal and telex address;
- name and surname of enterprise director, telephone number;
- nature of production, general characteristics of the products manufactured and the technology applied, experience in foreign cooperation;
- proposed forms of cooperation:

1) coproduction (specify object of coproduction—subassemblies, parts, components, presumed level of exchange);

2) utilization of the partner's experience in refining technological processes, developing new product design, and improving the technical level and quality of production (give particulars);

3) joint conduct of scientific research, joint development of technological processes and design solutions (give particulars);

4) cooperation in social services (give particulars);—and also, insofar as possible, specimens, prospectuses, catalogs, bulletins on production program and products manufactured, which may provide the basis for adopting the decision to establish direct cooperation;

b) the Chambers shall publish information on Soviet and Polish enterprises and organizations interested in establishing direct cooperation, in the publications by the Chambers designed for members off the USSR Chamber of Commerce and Industry and the Polish Chamber of Foreign Trade. This information will be published gratis along with the selected proposals for establishing direct cooperation transmitted by the partner-Chamber (Point 2,a of the system). The editors of the publications reserve the right to determine the scope of the published information and to refer to the possibility of obtaining additional data from the Chambers.

c) the Chambers shall transmit to each other legal-financial information as well as information on experience in establishing direct cooperation and on changes in the applicable regulations in both countries, with the object of utilizing it in the work with the members of the Chambers;

d) the Chambers shall include topics relating to the development of direct cooperation in their exhibits at expositions and trade fairs in both countries;

e) the Chambers shall coordinate and organize meetings of representatives of Soviet and Polish industrial enterprises with the object of discussing specific problems of the development of direct cooperation and transmitting the results of such meetings and the related proposals to the competent agencies of both countries.

3. The Chambers shall periodically organize meetings of their experts with the object of analyzing the effectiveness of their joint work in this field and drafting proposals to refine this work.

4. The current "System" is effective as of the day of its signing.

Prepared in Warsaw on 18 December 1987, one copy in the Russian language and one in Polish, with both texts being equally binding.

**Polish-Soviet Customs Clearance Understanding
26000116 Warsaw REFORMA GOSPODARCZA
(RZECZPOSPOLITA Supplement) in Polish
No 137, 14 Jul 88 pp I, II**

[Understanding Between the PRL Ministry of Foreign Economic Cooperation and the Main Directorate of the State Customs Control Under the USSR Council of Ministers Regarding the Simplification of Customs Clearance of Commodities and Other Items Transported as Part of New Forms of Foreign Economic Cooperation]

[Text] The Minister of Foreign Economic Cooperation, Polish People's Republic, and the Main Directorate of State Customs Control under the Council of Ministers of the Union of Soviet Socialist Republics, hereinafter

referred to as the "Contracting Parties," guiding themselves by the Agreement Between the Government of the Polish People's Republic and the Government of the Union of Soviet Socialist Republics Regarding Direct Manufacturing and Scientific-Technical Cooperation of Enterprises and Organizations of the Polish People's Republic and the Union of Soviet Socialist Republics, Basic Principles for the Formation and Operation of Joint Enterprises and Joint Organizations, and the Development of Reciprocal Trade Between Enterprises and Organizations of Internal Trade, signed in Warsaw on 15 October 1986, with the object of assuring favorable conditions for the development of new forms of mutually advantageous foreign economic cooperation of the enterprises and organizations of their countries, and being desirous of simplifying and standardizing the procedure for the customs clearance of the goods and other items shipped reciprocally under such cooperation, pursuant to provisions of Article 11, Paragraph 1, of the Agreement on Cooperation and Mutual Assistance in Customs-Related Matters, signed in Berlin on 5 July 1962, have agreed upon the following:

Article 1. In this Agreement the expression "goods and other items" is construed as:

- a) specimens of products, devices, equipment, tools, materials, coproduction sets, parts and components, one-of-a-kind machinery and equipment, material supplies, blueprints, and temporarily loaned teststands and research equipment, single machines and installations, and the like, when delivered as part of direct manufacturing and R&D cooperation of enterprises and organizations of the Polish People's Republic and the Union of Soviet Socialist Republics;
- b) equipment, materials, and other objects serving to implement the statutory activities of joint enterprises and joint organizations established by the economic organizations or state agencies of the Polish People's Republic and the Union of Soviet Socialist Republics;
- c) consumer goods and temporarily loaned commercial and exhibit facilities provided as part of direct cooperation between the enterprises and organizations of internal trade and food cooperatives of the Polish People's Republic and the Union of Soviet Socialist Republics.

Article 2. The customs control of goods and other articles will be based on transit or other documents in which the consignor includes information containing name and date with respect to:

- agreement (protocol) concluded by the Polish and Soviet economic entity for reciprocal trade as part of direct manufacturing and R&D cooperation;
- founding charter of the joint enterprise (organization);

—agreement (protocol) concluded by the Polish and Soviet economic entity concerning reciprocal trade in consumer goods.

Article 3. Customs control of exported goods and other articles entails the rubberstamping, dating, and signing by the customs official, of the transport documents or other documents subject to being shown to the customs office of the importing country.

Article 4. Customs control of goods and other articles is carried out at the state-border crossing point at customs offices, or directly within the area of the enterprises and organizations referred to in Article 1 of this Agreement.

Article 5. The provisions of this Agreement do not apply to:

- a) goods shipped as part of foreign-trade transactions;
- b) goods and other objects imported from third-party countries in which offices and branches of the joint enterprises and organizations mentioned in Article 1 of this Agreement operate, and which are exported to these countries;
- c) exhibit facilities other than those mentioned in Article 1, c) of this Agreement.

Article 6. Customs control of goods and other articles is performed pursuant to the Agreement on Unilateral Inspection of Foreign-Trade Goods signed in Berlin on 6 June 1967.

Article 7. The Contracting Parties shall exchange samples of the rubberstamp imprints mentioned in Article 3 of this Agreement within 7 days from the date of signing of this Agreement and shall in the future notify each other about any changes in their rubberstamps.

Article 8. The Contracting Parties shall keep each other informed about changes in the application of this Agreement.

Article 9. This Agreement is effective as of 1 April 1988 and remains binding until 31 December 1990.

It is subject to automatic extension for 5-year periods if neither of the Contracting Parties renounces it within 6 months prior to the expiration of the period specified.

Prepared in Moscow on 24 February 1988 in two originals, each in the Polish and Russian languages, with both texts being equally binding.

Contract Prices Protocol Between Poland, USSR
26000117 Warsaw REFORMA GOSPODARCZA
(RZECZPOSPOLITA Supplement) in Polish
No 137, 14 Jul 88 pp II, IV

[Protocol on the coordination of guidelines for the determination by PRL and USSR enterprises of the contract prices of reciprocally shipped products linked to the implementation of direct cooperation as based on economic accounting, self-financing, and profitability, with allowance for world prices]

[Text] As part of the implementation of the timetable for proposals linked to implementing the mechanism of cooperation between the PRL and the USSR, and with allowance for new forms of that cooperation, on 15 April 1988 the PRL Ministry of Foreign Economic Cooperation and the USSR State Committee for Prices agreed upon the following principles of the determination by PRL and USSR enterprises of the contract prices of reciprocally shipped products linked to implementing direct cooperation, as based on economic accounting, self-financing, and profitability, with allowance for world prices:

1. Contract prices, hereinafter referred to as prices, used by enterprises, organizations, and associations of the PRL and the USSR with respect to their reciprocal shipments as part of their direct cooperation, are determined by said enterprises, organizations, and associations autonomously on the basis of mutual advantages and economic accounting.
2. The prices of final products, including coproduced goods supplied as part of direct cooperation, also are determined with allowance for sales prices approximating the prices of analogous products on the leading world markets, including the market of CEMA countries.
3. The prices of new final products meeting the world level are determined on the basis of the principles formulated in Point 1 as well as with allowance for current world prices, with the object of prompting producers to stress competitive production and counteracting any growth of production cost.

Partners may also agree upon setting the prices of such products at a level above the world level. Partners determine the period of 83 applicability of such prices, draft and adopt a plan of measures to reduce cost and attain the level of world prices for the products concerned.

4. The prices of new components and elements are determined on the basis of the economic accounting of the enterprises operating as self-financing and profit-making enterprises, as well as with allowance for the prices of final products determined according to Point 3.

5. In the event of direct cooperation with regard to previously manufactured products, the prices are agreed upon with allowance for the existing contract prices.

6. In particular instances, when the purpose of direct cooperation is to compensate for periodically recurring

shortages of production capacity, a small quantity of shipments, etc., contract prices based on the partner's domestic prices may be agreed upon.

7. The prices of the technological, design, and other services rendered as part of direct cooperation are determined by agreement or on the basis of monthly emolument rates for various categories of specialists as agreed upon, bilaterally also, by CEMA countries.

8. To reduce differences in the prices of analogous products manufactured by partners on the basis of both domestic components and those imported as part of direct cooperation, reciprocal shipments of these products without payment are possible.

The contract prices agreed upon under direct cooperation may not provide a precedent for determining the prices under other contracts being implemented as part of trade between both countries.

This Protocol was signed in Moscow on 20 April 1988 in two copies, in the Polish and Russian languages, with both texts being equally binding.

The provisions of this Protocol ensue from the general principle of assuring a profitable direct cooperation. This aim is to be promoted by fixing contract prices on the basis of mutual advantages and economic accounting. Here emphasis should be placed on a new element of price mechanism (Point 3 of the Protocol), namely, on allowing for the current world prices (as opposed to the traditional 5-year basis of contract prices in trade among CEMA countries [meaning that previously prices could not be adjusted to world prices until after 5 years]) when determining the prices of new final products. The Protocol also provides (Point 8) for the possibility of supplying components and elements without charge to the partner in direct cooperation whose price and cost conditions are more favorable. This should make it possible to reduce the prices of final products.

Ruling on Polish, Soviet Direct Enterprise Cooperation Published
26000118 Warsaw REFORMA GOSPODARCZA
(RZECZPOSPOLITA Supplement) in Polish
No 137, 14 Jul 88 p II

[Ruling No 28/87 of 12 June 1987 of the Government Presidium regarding the implementation of the agreement between the Government of the PRL and the Government of the USSR concerning direct production and R&D cooperation of enterprises and organizations of the PRL and the USSR, signed in Warsaw on 15 October 1986]

[Text] The Government Presidium rules as follows:

1. The direct production and R&D cooperation of Polish enterprises and their associations, R&D units, and other

organizations, hereinafter referred to as Polish economic entities, is implemented in accordance with the principles and directions defined in the Agreement Between the Government of the PRL and the Government of the USSR on the Direct Production and R&D Cooperation of Enterprises and Organizations of the PRL and the USSR, signed on 15 October 1986 and constituting Appendix No 1 to this Ruling, hereinafter referred to as "Agreement," with allowance for the Guidelines constituting Appendix No 2 to this Agreement.

2. The parent agencies and other bodies supervising the activities of Polish economic entities provide them with needed assistance in establishing and implementing direct cooperation with Soviet economic entities, with allowance for the obligations ensuing from this Agreement.

3. It is recommended to the central boards of cooperative unions and the Central Union of Crafts that they provide assistance to their member organizations in implementing the principles defined in Point 2.

4. The minister of foreign trade and the minister of finance shall issue the needed regulations prescribing the principles of trade linked to direct production and R&D cooperation.

5. The chairman of the GUS [Main Office of Statistics] shall determine the rules for registering the protocols (agreements) and reports on the implementation of direct production and R&D cooperation.

6. This Ruling is effective as of the day it was adopted.

Appendix No 1. Agreement Between the Government of the Polish People's Republic and the Government of the Union of Soviet Socialist Republics Concerning Direct Production and Scientific-Technical Cooperation of enterprises and organizations of the PRL and the USSR—text published in the supplement REFORMA GOSPODARCZA, No 90, 27 November 1986.

Appendix No 2. Guidelines on the Subject and Implementation of Direct Production and Scientific-Technical Cooperation Between Polish Economic Entities and Soviet Economic Entities

1. The imports or exports of goods linked to implementing agreements on direct production and R&D cooperation concluded between Polish and Soviet economic entities may be part of commercial or noncommercial foreign trade.

2. The imports or exports of goods in commercial foreign trade are based on foreign trade permits issued pursuant to the Decree of 26 February 1982 on the Right to Engage in Foreign Trade (DZ. U., No 7, Item 59).

Permits to engage in commercial foreign trade as part of direct cooperation shall be issued on the basis of Article 8, Paragraph 3, of the abovementioned Decree.

3. Applications for such permits should be accompanied by a copy of the protocol (agreement) on direct production and R&D cooperation concluded with the Soviet economic entity and registered by the procedure defined by the GUS.

Polish economic entities may also engage in commercial foreign trade through the mediation of Polish foreign trade agencies.

3. The subject of commercial trade may be goods and services resulting from direct production and R&D cooperation and articles needed to implement this cooperation, with the exception of:

1) goods for which no foreign trade permits are granted;

2) goods deriving from imports;

3) complete installations;

4) films that are not in the nature of training or instructional films.

4. The transfer and reception, on mutually agreed upon terms, of design blueprints and licenses on scientific and technical innovations may be the subject of direct cooperation, but they are covered by the provisions of Resolution No 184/85 of 15 November 1985 of the Council of Ministers Concerning the Exports and Imports of Scientific and Technical Achievements (MONITOR POLSKI, No 37, Item 246) and the Executive Order of 28 January 1986 of the Minister of Foreign Trade Concerning the Rules and Procedure for the Exports and Imports of Scientific and Technical Accomplishments (MONITOR POLSKI, No 10, Item 67).

5. The imports or exports of goods in commercial foreign trade as part of direct cooperation are based solely on contracts concluded in accordance with the rules for concluding and implementing them (e.g., foreign trade prices, import and export permits, customs control, statistics, etc.) and on their financing. To assure an efficient trade, Polish economic entities may agree with their Soviet counterparts upon the tentative value of reciprocal shipments for a given year without itemizing the discrete goods and services. The nature and specific terms of shipments are defined in the contracts.

6. The subject of noncommercial foreign trade may be:

1) materials, parts, and components of minor value;

2) isolated specimens and products as well as equipment prototypes, transmitted between partners for exploratory testing;

3) research apparatus, laboratory and control-and-measuring equipment, and testing devices and equipment, provided for accomplishing tasks ensuing from the activities of the cooperating research institutions and R&D units.

4) objects relating to the social service activities of the cooperating economic entities.

7. The following activities also are included in direct cooperation between Polish and Soviet economic entities:

1) provision of services relating to social welfare;

2) provision of services based on clearing of accounts without resorting to foreign exchange;

3) implementation of R&D and design and experimental projects;

4) exchange of experts with the object of providing assistance in the development and application of new equipment and technologies, preparing equipment for operation, eliminating breakdowns and technical defects, etc., financed by the sending or receiving parties as well as within the framework of trade not requiring foreign exchange;

5) exchange of employees for purpose of training or other forms of preparing personnel (e.g., practicums), financed by both the sending and the receiving parties.

8. The value of the noncommercial trade conducted as part of direct cooperation is estimated separately by each party and assumed to be equivalent. The estimation may be based on prices agreed upon mutually by the cooperating economic entities. These prices may not be a precedent for determining the prices of analogous goods in commercial trade.

9. Pursuant to separate regulations, the imports and exports and provision of services in noncommercial trade do not require obtaining import and export permits nor paying customs duties.

10. Direct cooperation is established once a protocol (agreement) on implementing direct production and R&D cooperation is signed between Polish and Soviet economic entities (sample forms prepared by the Intergovernmental Polish-Soviet Commission for Economic, Scientific, and Technical Cooperation are recommended).

11. The signatories to the protocol (agreement) notify their parent or supervisory agencies.

Resolution on Polish, Soviet Joint Enterprise Activity Published

26000119 Warsaw REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement) in Polish No 137, 14 Jul 88 pp III, IV

[Resolution No 141 of 30 November 1987 of the Council of Ministers regarding the implementation of the Understanding between the Governments of the PRL and the USSR concerning the fundamental guidelines on the creation and activity of joint enterprises and joint organizations]

[Text] The Council of Ministers resolves as follows:

Paragraph 1. 1. This Resolution defines the conditions and procedure for implementing on the territory of the Polish People's Republic the Understanding Between the Government of the Polish People's Republic and the Government of the Union of Soviet Socialist Republics Concerning the Fundamental Guidelines on the Creation and Activity of Joint Enterprises and Joint Organizations, signed in Warsaw on 15 October 1986 and hereinafter referred to as the "Agreement."

2. Detailed guidelines on the conclusion of agreements to create joint enterprises and on their conduct of economic activities contain recommendations constituting the Appendix to this Resolution.

Paragraph 2. 1. Whenever the term "joint enterprise" is used in this Resolution, it is construed to mean both an international enterprise and a partnership with foreign participation.

2. When drafting the founding documents for an international enterprise, pursuant to this Resolution and the recommendations appended thereto, provisions governing the economic-financial system of Polish state enterprises are applied correspondingly.

3. The enterprises and organizations formed on the territory of the Polish People's Republic (PRL) and referred to in Point 2, as well as the branches (affiliates) of joint enterprises on PRL territory whose main offices are sited in the Union of Soviet Socialist Republics (USSR), are subject to the duty of being registered in the system for identifying and statistically classifying entities of the national economy.

Paragraph 3. 1. The following may be formed on PRL territory:

1) joint enterprises;

2) joint organizations (associations).

2. Joint enterprises are established with the aim of achieving economically effective performance by producing goods, providing services, and engaging in other economic activities as part of the international socialist division of labor, and utilizing the R&D and industrial potential of both countries.

3. The purpose of joint organizations (associations) is to coordinate on the basis of agreements the whole or part of the economic activities pursued by the participants in these organizations.

Paragraph 4. 1. Joint enterprises may be established in the form of:

1) joint-stock companies with foreign participation—pursuant to the provisions of Decree of 23 April 1986 on Partnerships with Foreign Participation (DZ.U., No 17, Item 88, 1986; and No 33, Item 181, 1987), hereinafter referred to as the "Decree on Partnerships with Foreign Participation";

2) international enterprises—pursuant to the provisions of Article 14 of the Decree of 25 September 1981 on State Enterprises (DZ.U., No 35, Item 201), hereinafter referred to as the "Decree on State Enterprises," and Article 42 of the Decree on Partnerships with Foreign Participation."

2. Joint enterprises having the form of joint-stock companies with foreign participation are established by means of a partnership agreement concluded according to Polish law between Polish and Soviet economic entities having legal entity.

3. A joint enterprise having the form of an international enterprise is established by concluding an international agreement to which should be appended bylaws. Negotiations to establish such a joint enterprise require prior approval by the minister of foreign economic cooperation. The pertinent application should contain a rationale and the premises for establishing the joint enterprise.

Paragraph 5. 1. Joint organizations are established by means of civil-law agreements concluded by the economic entities of both parties and providing for shares to be contributed by each partner in order to achieve the common economic goal; they operate on the basis of joint management by participants or by entrusting management to one of the participants (partnership under civil law). Joint organizations may also be established by means of international agreements concluded by agencies of state administration.

2. A joint organization cannot be a legal entity under Polish law, unless it is registered as a partnership with foreign participation pursuant to the provisions of the commercial law code and the Decree on Partnerships with Foreign Participation.

Paragraph 6. Concluding an international agreement to establish an international enterprise or a joint organization follows the procedure defined in the Resolution of 28 December 1968 of the Council of State and the Council of Ministers Concerning the Conclusion and Renunciation of International Agreements.

Paragraph 7. 1. Only PRL citizens may be appointed directors of joint enterprises or joint organizations.

2. The bylaws of the joint enterprise may provide for election by the workforce of representatives with advisory rights.

Paragraph 8. Joint enterprises and joint organizations may open branch offices, and joint enterprises may also open branch enterprises (affiliates) on the territory of the PRL and the USSR by the same procedure as that followed in establishing joint enterprises, if so envisaged in the founding charter.

Paragraph 9. The establishment of a joint enterprise is preceded by drafting technical and economic assumptions which are, prior to their presentation to the Soviet side, subject to acceptance by the concerned agency of state administration and by the taskforce of investment experts at the Planning Commission under the Council of Ministers. The expenditures incurred on drafting such assumptions for a joint enterprise whose establishment proves inexpedient are to be defrayed equally by both sides.

Paragraph 10. Foreigners employed by a joint enterprise are entitled to the following rights, on the basis of reciprocity:

1) the right to two additional paid days off on, and only on, the occasion of the national holidays of their countries, during each calendar year;

2) a 25-percent pay allowance on top of basic pay, debited to the operating cost of the joint enterprise; this allowance is taken into consideration when reckoning the average pay of the employee, the dues and benefits linked to mandatory social security, and the deduction of taxes and fees;

3) the right to transfer to the country of permanent residence their savings in an amount of up to 50 percent of their wages;

4) the right to an annual paid vacation of 30 calendar days; each time that vacation is taken the foreign employee is entitled to a 75-percent extra monthly pay allowance plus other, regular allowances;

5) exemption from customs duties on articles brought in for personal needs when arriving for work at the joint enterprise and when departing for the country of permanent residence after completion of job—pursuant to provisions of Polish law;

6) the right to benefit from housing, municipal services, and medical care on the same terms as Polish citizens.

Paragraph 11. The chairman of the Main Office of Statistics shall define the guidelines for reports on joint enterprises.

Paragraph 12. Polish state enterprises and other entities of the socialized sector may, upon the approval of the minister of foreign economic cooperation, as coordinated with the minister of finance, establish joint enterprises on USSR territory. The requirements for establishing such enterprises and for their operation are defined by the Agreement and Soviet law.

Paragraph 13. Agencies of state administration shall provide enterprises with needed assistance in establishing joint enterprises.

Paragraph 14. The central boards of cooperative unions and of the Central Union of Crafts are expected to apply the provisions of this Resolution in the event that the entities associated within them establish joint enterprises.

Paragraph 15. Supervision over the implementation of this Resolution is entrusted to the Government Representative for Aspects of Cooperation and Joint Enterprises.

Paragraph 16. This Resolution becomes effective on the day of its publication.

Appendix. Recommendations Concerning Detailed Guidelines on the Conclusion of Agreements To Establish and Operate Joint Enterprises

I. Guidelines for Establishing Joint Enterprises

1. 1. A joint enterprise may be established as a partnership with limited responsibility or as a joint-stock company operating pursuant to the provisions of the commercial law code and the Decree on Partnerships with Foreign Participation when the Polish participant contributes as his share: buildings, structures, equipment, and other material assets; the right to use land, buildings, structures, and equipment, and other property rights (e.g., those relating to inventions, licenses, or knowhow); monies in the national currencies of the participants in the joint enterprise, in transfer rubles, and in convertible currencies.

The conclusion of a partnership agreement by a state enterprise requires prior consent by the worker council pursuant to Article 24, Paragraph 1, Point 4, of the Decree of 25 September 1981 Concerning Workforce Self-Government at State Enterprises (DZ.U., No 24, Item 123, 1981; No 17, Item 88, 1986; and No 33, Item 181, 1987), hereinafter referred to as the Decree on Workforce Self-Government.

The property at the disposal of the Polish state enterprise (both the entirety of its fixed assets and discrete components of its capital) may be contributed as that enterprise's share in the joint enterprise having the form of a partnership solely by the state enterprise itself; this cannot be done or ordered by the parent agency.

1.2. The procedure for contributing to the joint enterprise the assets owned by the Polish state enterprise may be as follows:

1) when the contribution of part of the enterprise's fixed assets does not cause the abandonment or marked curtailment of the operations specified in the founding charter of the state enterprise (i.e., when the enterprise continues its traditional manufacturing or service operations), the only requirement is that the worker council grant its approval for contributing components of the enterprise's property to the joint enterprise (Article 24, Paragraph 1, Point 10, Decree on Workforce Self-Government);

2) when the contribution of part of the enterprise's fixed assets is bound to cause the abandonment or marked curtailment of the operations specified in the founding charter of the state enterprise, a resolution in favor has to be passed by the worker council (Article 24, Paragraph 1, Point 8, Decree on Workforce Self-Government), and moreover the provisions of Article 53, Paragraph 2, of the Decree on State Enterprises may apply;

3) when the entirety of the assets of the state enterprise is to be contributed to the partnership, the enterprise is subject to dissolution or merger with another enterprise, to be ordered by the parent agency (Article 25, Paragraph 1, Decree on State Enterprises), with the object of contributing that capital as the share in the partnership through the mediation of another state enterprise.

1.3. A joint enterprise may be established as an international enterprise pursuant to Article 14 of the Decree on State Enterprises and Article 42 of the Decree on Partnerships with the Participation of Foreign Capital, through the conclusion of an international agreement.

1.4. The international enterprise may be formed:

1) on the basis of the assets of the dissolved state enterprise, which the proper agency of state administration will contribute as the share of the Polish side;

2) by building through joint effort and with joint resources a new enterprise on PRL territory.

1.5. The agreement to establish the joint enterprise may provide for expanding or modernizing the previous state enterprise with funds contributed by participants or with loans contracted for this purpose by the joint enterprise.

II. The Statutory Fund

2. 1. A statutory fund is established within the joint enterprise from contributions by participants, which must be made prior to the day of registration of the joint enterprise; the founding charter of the joint enterprise may provide for the possibility of installment payments of the contribution to the statutory fund.

The founding agreement may include a provision obligating the participants to make additional payments to the statutory fund.

2.2. The statutory fund may be augmented by participants from the profits they derive from the operations of the joint enterprise.

2.3. The statutory fund is reckoned in zlotys and valued in transfer rubles.

2.4. Contributions to the statutory fund may include: buildings, structures, equipment, and other material goods; the right to use land, buildings, structures, and equipment; other property rights (e.g., those linked inventions, licenses, and knowhow); monies in the national currencies of the participants in the joint enterprise, in transfer rubles, and in convertible currencies.

2.5. A participant in the joint enterprise may transfer his contribution to a third person only upon the approval of the other participant in that enterprise.

III. Methods for Valuing the Contributions to the Statutory Fund

3.1. The valuation of the material assets contributed by participants as their share in joint enterprises is based on foreign-trade prices determined according to the principles and price-shaping methodology mandatory within the Council for Mutual Economic Assistance (CEMA), as well as according to recommendations of CEMA agencies, upon reckoning these prices in zlotys according to the current exchange rate fixed by the National Bank of Poland (NBP). In the event of absence of such prices, the value of the assets contributed has to be agreed upon between the participants.

3.2. If the contribution by the Polish participant is the assets of a dissolved enterprise, the value of that contribution is determined by the following procedure:

1) the value of assets in transfer rubles is determined according to the appraisal of these assets in terms of foreign-trade prices with allowance for depreciation; this appraisal may be verified by independent experts, with the expense to be borne by the contributor; the value of the assets in zlotys is determined by multiplying the value in transfer rubles by the current rate of exchange fixed by the NBP;

2) in the event that it is not possible to appraise the assets in terms of foreign-trade prices, or in other cases agreed upon between the participants, the appraisal may be based on the balance-sheet value of the assets in zlotys with allowance for the rise in the prices of discrete components of the assets according to indicators of the Main Office of Statistics concerning the real value of asset groups for a given year and the extent of depreciation of these components, upon reckoning this value in transfer rubles according to the current rate of exchange fixed by the NBP.

3.3. The guidelines specified in Point 3.2 apply correspondingly if the contribution of the Polish participant consists in a discrete department or section of the state enterprise.

3.4. In the event that establishing a joint enterprise involves building new facilities, the cost of building is determined directly in transfer rubles according to the guidelines for determining contract prices applicable to exports of construction. The value of the new facilities in zlotys is determined by multiplying their value in transfer rubles by the current rate of exchange of the transfer ruble in zlotys as fixed by the NBP. The value of new facilities may also be determined, if so agreed upon by the partners, on the basis of the construction cost estimate in zlotys on converting it to transfer rubles according to the current rate of exchange of the transfer ruble in zlotys as fixed by the NBP.

IV. Financial Management

4.1. The joint enterprise is self-managing and self-financing.

4.2. Cost accounting at the joint enterprise follows the same principles as those binding on Polish state enterprises.

4.3. The calculation of transfer rubles and convertible currencies in zlotys, and of zlotys in transfer rubles and convertible currencies, is based on the current rates of exchange of the transfer ruble and convertible currencies in zlotys as fixed by the NBP.

4.4. The profits of the joint enterprise are, after deductions for taxes and enterprise funds, and after the resale of revenues in convertible currencies referred to in Point 5.1, divided between the participants proportionately to their share in the statutory fund.

Part of the profits due the Soviet participants is transmitted in transfer rubles without any restriction, after the zlotys are converted to transfer rubles according to the current rate of exchange fixed by the NBP.

In the event that the profits and net income of the joint enterprise are in convertible currencies ensuing from a surplus of revenues from exports over expenditures on imports, part of the profits may be paid to the participants in convertible currencies, in proportion to their share in the statutory fund.

4.5. The joint enterprise is subject to taxation in accordance with the Decree of 26 February 1982 on the Taxation of Entities of the Socialized Sector (DZ.U., No 12, 1987, Item 77), and if the enterprise is in the nature of a partnership with foreign participation, it is subject to taxation pursuant to the provisions of the Decree on Partnerships with Foreign Participation.

4.6. In the event that the joint enterprise is established on the basis of a Polish state enterprise, a new criterion for calculating the tax on ceiling-exceeding wages is established.

4.7. The joint enterprise sets up various enterprise funds [i.e., development fund, housing fund, etc.] pursuant to the guidelines binding on Polish state enterprises, and in particular pursuant to the provisions of the Decree of 26 February 1982 on the Financial Management of State Enterprises (DZ.U., No 8, Item 44, 1986; No 39, Item 192, 1986; No 47, Item 236, 1986; and No 33, Item 181, 1987).

4.8. Bookkeeping at the joint enterprise follows the guidelines established for entities of the socialized sector.

4.9. The depreciation rates at the joint enterprise, which are patterned on the same percentages as at Polish state enterprises, are credited to the joint enterprise.

V. Foreign Exchange Regulations

5.1. The joint enterprise shall resell to the Polish foreign exchange bank from 15 to 25 percent of its export revenues in convertible currencies. The minister of foreign economic cooperation shall, in coordination with the minister of finance, determine the amount of resale individually for every individual joint enterprise.

5.2. The joint enterprise may share with its domestic suppliers part of its foreign exchange in the amount needed for coproduction operations.

5.3. Foreign exchange in the form of transfer rubles and convertible currencies may be resold by the enterprise to the Polish bank for zlotys at the current rate of exchange.

5.4. In the event that production at the joint enterprise requires imports of producer goods and equipment from Payments Area 2 ["capitalist" countries] but it lacks funds of its own in convertible currencies, the participants in the enterprise may pledge themselves to resell to

the enterprise convertible currencies for transfer rubles in an amount proportional to the quantity of producer goods and equipment requiring payment in foreign exchange.

VI. Guidelines for Clearing of Accounts and Crediting of Joint Enterprise

6.1. The liquid capital of joint enterprises is kept in their accounts at Polish foreign exchange banks. These banks may, when so instructed by the joint enterprise, open and manage the enterprise's accounts in Polish and foreign currencies, and they may make loans to the enterprise on the same principles as those applying to state enterprises, on the basis of agreements concluded between the enterprise and the banks.

6.2 The joint enterprise may, upon reaching an agreement with the proper foreign exchange bank, open a bank account and apply for loans to the International Bank for Economic Cooperation, the International Investment Bank, Soviet banks, or other banks.

VII. Marketing of Output

7.1. The joint enterprise sells its output:

- 1) to Polish entities, on the basis of price criteria binding in Poland;
- 2) by exporting it, on the basis of the price guidelines and clearing procedures binding on the foreign trade between the Polish People's Republic and the given country.

7.2. When selling goods abroad, the joint enterprise may independently conclude contracts if it has a permit issued by the minister of foreign economic cooperation, or it may execute its sales through the mediation of Polish foreign trade agencies.

VIII. Planning and Supply of Producer Goods

8.1. The joint enterprise operates on the basis of its own plan that is confirmed by the enterprise director.

The plan of the joint enterprise is drafted with allowance for the directions of socioeconomic development of the PRL and the USSR.

8.2. Unless otherwise agreed upon by the participants in the joint enterprise, the enterprise acquires producer goods in accordance with the procedure and guidelines binding on Polish state enterprises. This also applies to the prices of the raw and other materials supplied to the enterprise.

8.3. In particular, the participants in the joint enterprise may agree that producer goods in the nature of scarce raw and other materials, fuels, and equipment, will be supplied by the participants in proportion to the volume

of sales of the enterprise. The participants in the joint enterprise may also agree that the whole of producer goods needed by the enterprise be provided by one of the participants.

Shipments of producer goods for the joint enterprise from the country of the coparticipant are based on contracts and subject to prices binding in foreign trade.

8.4. Founding charters should specify that any imports of the producer goods referred to in Point 8.3 shall be in addition to the supply quantities specified in the trade protocols concluded between individual socialist countries.

IX. Employment

9.1. Employment and labor relations at joint enterprises are subject to the Polish labor law code. This principle also applies to foreigners employed by the joint enterprise, unless an international agreement specifies otherwise.

9.2. The working conditions, wage system, and fringe benefits of employees of the joint enterprise are defined in the founding charter or in the agreement concluded between the enterprise director and the plant trade-union organization concerning the wage system and fringe benefits of the workforce, in accordance with the Polish labor law code.

9.3. Four-year labor contracts are signed by foreigners hired for work at the joint enterprise. On the request of the participant recommending the hiring of the employee, the director of the joint enterprise may extend the duration of the labor contract.

X. Entitlements

10.1. Entitlements of employees at the joint enterprise are subject to Polish law.

10.2. The joint enterprise, in particular:

1) pays the social security premium;

2) handles the tasks linked to social security in the same way as a state enterprise;

3) settles accounts with the Social Security Administration by the same procedure as a state enterprise;

4) finances with its own funds the expenditures on sickness allowances (as part of wage funds) and lump-sum compensation for work accidents and occupational diseases.

XI. Registration of the Joint Enterprise

11.1. The joint enterprise becomes a legal entity once it is entered in the Commercial Registry pursuant to the provisions of the Decree on Partnerships with Foreign Participation.

11.2. The registration request submitted by the joint enterprise should be accompanied by a declaration of the founders certifying to the transfer of financial contributions and also certifying that nonfinancial contributions [material assets] shall be made upon the registration of the enterprise.

XII. Arbitration of Disputes

12.1. The jurisdiction of Polish courts in arbitrating disputes to which a joint enterprise is a party is defined by Polish legislation, with the exceptions defined in Point 12.2 below.

12.2. Disputes between an international enterprise and its participants relating to membership are arbitrated in accordance with the Convention on the Procedure for Arbitrating Civil-Law Disputes Ensuing from Relations of Economic, Scientific, and Technical Cooperation, signed in Moscow on 26 May 1972 (DZ.U., No 7, Items 37 and 38, 1976), unless the founding charter provides for submitting the dispute to arbitration by an ad hoc court of conciliation.

XIII. Dissolution of Joint Enterprise

13.1. The joint enterprise is subject to dissolution once its founding agreement expires. The joint enterprise may also undergo dissolution in cases specified in its founding agreement or charter. In cases not specified in the founding agreement or charter, provisions of Polish law apply to the dissolution.

13.2. In the event of the dissolution of a joint enterprise, the Polish participant has priority in acquiring the assets of that enterprise.

13.3. The liquid assets obtained from the sale of the assets of the dissolved enterprise are, after meeting the claims of creditors and the obligations to employees of the enterprise, distributed among the participants in the enterprise proportionately to their contributions to the statutory fund.

Order on Exemption From Duties, Import-Export Obligations Published

26000120 Warsaw REFORMA GOSPODARCZA
(RZECZPOSPOLITA Supplement) in Polish
No 137, 14 Jul 88 p III

[Executive Order of the Ministry of Foreign Trade dated 24 June 1987 altering the executive order regarding exemption from the obligation of import-export permission as well as from duties on foreign trade]

[Text] Pursuant to Article 20, Paragraph 3, Point 2, of the Decree of 26 March 1975 on Customs Law (DZ.U.,

No 57, Item 290, 1975), the following is hereby ordered: Paragraph 1. 1. The Executive Order of 9 December 1983 of the Minister of Foreign Trade Concerning Exemptions from the Obligation of Import-Export Permission and from Customs Duties on Foreign Trade (DZ.U., No 69, Item 312, 1983; No 44, Item 222, 1986) is complemented with the following Paragraph 30a:

"Paragraph 30a. 1. Articles imported and exported under agreements concluded between Polish economic entities and foreign customers for direct production and R&D cooperation are exempted from import and export duties.

"2. The permission referred to in Point 1 pertains in particular to:

"1) materials, parts, and components of minor value;

"2) isolated specimens, finished products, and prototypes of reciprocally exchanged equipment for operational testing;

"3) research, laboratory, and control-and-measuring equipment as well as testing devices and facilities made available to accomplish tasks ensuing from the activities of the cooperating scientific institutions and R&D units;

"4) articles relating to the social service activities of the cooperating economic entities.

"3. The exemption is granted following the submission of a written request identifying the recipient, the purpose of transfer, and the quantity, nature, and value of the articles, and affirming that the transfer of the articles is made to implement the agreements referred to in Point 1.

"4. The exemptions referred to in Points 1 and 2 pertain to imports and exports of articles in noncommercial foreign trade."

Paragraph 2. A list of Polish economic entities engaging in the direct cooperation referred to in Paragraph 1, Point 1, is kept by the minister of foreign trade.

Paragraph 3. This Executive Order is effective as of the day of its publication.

Order on Noncommercial Trade With CEMA Countries Published

26000121 Warsaw *REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement)* in Polish
No 137, 14 Jul 88 p III

[Order of the Ministry of Finance dated 26 June 1987 regarding foreign permits for agreements about noncommercial foreign trade in goods and services that do not represent foreign exchange values]

[Text]

Paragraph 1

1. Polish economic entities are permitted to conclude with the economic entities of the member countries of the Council for Mutual Economic Assistance agreements on mutual nonreimbursable provision of services 83 and goods that do not represent foreign exchange values.

2. The subject of the agreement referred to in Point 1 may be reciprocal exchange of, in particular:

1) materials, parts, and components of minor value;

2) discrete specimens and finished products as well as prototypes of mutually exchanged equipment for exploratory testing;

3) research, laboratory, and control-and-measuring apparatus as well as testing devices and equipment made available for implementing tasks linked to the activities of the cooperating scientific institutions and R&D organizations;

4) objects and services relating to the social-service activities of the cooperating economic entities;

5) services rendered free of charge;

6) R&D, project-design, and experimental work.

Paragraph 2

A list of Polish economic entities engaging in the direct cooperation referred to in Paragraph 1, Point 1, is kept by the minister of foreign trade.

Paragraph 3

This Executive Order is effective as of the day of its publication.

Order on Joint Ventures Reporting Obligations Published

26000122 Warsaw *REFORMA GOSPODARCZA (RZECZPOSPOLITA Supplement)* in Polish
No 137, 14 Jul 88 p III

[Order No 24 of the President of the Central Office of Statistics dated 22 June 1987 regarding reporting obligations with reference to concluded agreements about the implementation of joint ventures as part of foreign economic and R&D cooperation of the PRL]

[Text] Pursuant to Article 16, Paragraph 1, of the decree of 26 February 1982 on State Statistics (DZ.U., No 7, Item 58), the following is hereby ordered:

Paragraph 1

The following obligations are introduced: 1) the obligation of reporting concluded agreements about implementing joint ventures as part of foreign economic and R&D cooperation to the Central Registry of Joint Ventures kept by the Center for Foreign Trade Information, as per sample form constituting Appendix No 1 to this Executive Order;

2) the obligation of preparing and transmitting the statistical report on Form E-06—the semiannual report on noncommercial trade and on exchange of experts as part of the implementation of agreements on joint ventures, as per the sample form constituting Appendix No 2 to this Executive Order.

Paragraph 2

The obligation referred to in Paragraph 1 applies to entities of the socialized sector as well as to legal entities not belonging to the socialized sector which concluded an agreement to implement a joint venture with a foreign partner.

Paragraph 3

1. The agreements referred to in Paragraph 1, Point 1, should be reported within 2 weeks from the date of their conclusion.
2. To assure completeness of entry in the Central Registry, the agreements signed prior to the effective date of this Order and being implemented should be reported within 2 months from said effective date.
3. The statistical report referred to in Paragraph 1, Point 2, is transmitted by the concerned entities to the Center for Foreign Trade Information within 25 days following the end of each semiannum.

Paragraph 4

1. The concept "joint venture" is to be construed as cooperation between Polish economic entities and foreign partners, implemented on the basis of concluded agreements for:

- R&D cooperation;
- direct production and R&D cooperation;
- joint ventures concerning fuels and raw and other materials;
- concerted action to develop productive capacities;
- establishment of joint enterprises on the territory of Poland and other countries;
- cross-border trade;
- trade in consumer goods.

2. A list of types of joint ventures subject to reporting is contained in Appendix No 3 to this Order.

Paragraph 5

Details on implementing the obligation introduced by this Order are contained in the Guidelines for Reporting Agreements to Implement Joint Enterprises, in Appendix No 4 to this Order.

The Appendixes referred to in this Order are available from the Central Statistical Office in Warsaw and the appropriate voivodships statistical offices.

Communiqué on Licensing Policies Published

26000123 Warsaw *REFORMA GOSPODARCZA*
(*RZECZPOSPOLITA Supplement*) in Polish
No 137, 14 Jul 88 pp III, IV

[Communiqué of the Minister of Foreign Economic Cooperation dated 30 December 1987 regarding the principles of licensing policies]

[Text] Granting rights to engage in foreign trade is intended to spur and improve the profitability of exports of goods and services and accelerate the proexport restructuring of the economy by broadening the direct participation, autonomy, and responsibility of manufacturing, service, and commercial establishments. Below are presented the guidelines for granting rights to engage in foreign trade (licenses) to legal entities and individuals:

1. Licenses are granted to legal entities and individuals meeting the requirements of the Decree of 26 February 1982 Concerning Rights to Engage in Foreign Trade (DZ.U., No 7, Item 59, 1982; and No 33, Item 181, 1987).
2. In view of the special nature of the foreign trade or foreign economic ties, pursuant to Article 8, Paragraph 3, of the abovementioned Decree, the following organizations will be granted licenses to engage in foreign trade even though they do not meet the requirements of Article 8, Paragraph 3, of said Decree:
 - 1) R&D, application, and other scientific and research organizations having permits to engage in economic activity and the capability to export scientific and technical accomplishments as well as equipment and apparatus produced at their own facilities;
 - 2) economic entities implementing international agreements for direct production and R&D cooperation with other socialist countries;
 - 3) enterprises and organizations of domestic trade authorized to directly engage in trade in consumer goods with partner enterprises and organizations in socialist countries;

4) international enterprises established on the basis of international agreements;

5) partnerships with foreign participation, established pursuant to Decree of 23 April 1986 on Partnerships with Foreign Participation (DZ.U., No 17, Item 88, 1986; and No 33, Item 181, 1987), and foreign small-industry enterprises established pursuant to Decree of 8 July 1982 on the Principles of Engaging in Small-Scale Economic Activity on PRL Territory by Foreign Legal Entities and Foreigners (uniform text—DZ.U., No 13, Item 58, 1985);

6) other legal entities and individuals having ties of cooperation with foreign customers or manufacturing exportable products from materials provided by foreign customers.

3. The subject of the licenses granted to the entities and persons referred to in Point 2 may be:

1) exports of goods and services manufactured and rendered as part of in-plant economic activity;

2) imports of goods and services for in-plant needs.

4. Licenses shall also be granted to manufacturing and service enterprises established in the form of commercial-law partnerships on the principle of freely shaped commercial and service competences, particularly as regards goods and services heretofore not exported or deriving from producers heretofore not participating in exports. The licenses granted to such entities may also comprise export-related commercial activities pursued in their own behalf and on their own account.

5. The material scope of export and import licenses will preclude goods for which, pursuant to the Executive Order of the Council of Ministers, no foreign-trade licenses are granted.

6. The license defines the geographical and material scope of the right to engage in foreign trade.

7. Imports and the foreign-exchange cost of export-import activities shall be financed from the foreign exchange owned by the licensed entities themselves.

8. The entities engaging in foreign trade are obligated to adhere to the requirements of separate regulations, especially customs, foreign-exchange, and sanitary requirements for granting import and export permits and engaging in activity in accordance with the state's commercial and payment policy.

9. A decision to alter or revoke a license may be taken pursuant to Article 12 of the Decree, particularly in the following cases:

1) violation of the licensing requirements;

2) failure to assure proper personnel, organizational, or technical servicing of exports or imports of the goods and services specified in the license;

3) if the owner of the license does not engage in export activity for 2 years.

10. Persons authorized to engage in foreign trade on the basis of licenses or of a list of goods and services that do not require licensing for their foreign trade, shall be identified by appropriate statistical numbers for purposes of registration and recordkeeping, as well as commercial documents and import and export permit forms, by the Foreign Trade Information Center at: 00-739 Warsaw, ul. Stepinska 9, phone: 41-00-11.